

9 FAM 40.62

NOTES

(CT:VISA-2105; 05-07-2014)
(Office of Origin: CA/VO/L/R)

9 FAM 40.62 N1 BACKGROUND

(CT:VISA-1316; 09-23-2009)

The Illegal Immigration Reform and Immigrant Responsibility of 1996 (IIRIRA), Public Law 104-208, amended the Immigration and Nationality Act (INA) by essentially eliminating the old concepts of "entry", "exclusion", and "deportation" replacing them with the new concepts of "admission", "denied admission", and "removal from." These new concepts respond to the perception that the INA was subject to abuse by enabling aliens to get in and remain in the United States unwarrantedly in large part because "deportation" included more procedural protection than "exclusion".

9 FAM 40.62 N2 DEFINITIONS

9 FAM 40.62 N2.1 "Admission and Admitted" Defined

(CT:VISA-2105; 05-07-2014)

The INA defines the terms "admission" and "admitted" to mean the lawful entry of an alien into the United States after inspection and authorization *as an alien* by an immigration officer. An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been "admitted". Aliens who have entered without inspection are not considered to have been "admitted" and are thus subject to "admission" proceedings.

9 FAM 40.62 N2.2 "Application for Admission" Defined

(TL:VISA-239; 02-26-2001)

The term "application for admission" refers to an alien's application for admission into the United States and not to the alien's application for the issuance of a visa.

9 FAM 40.62 N3 FAILURE TO ATTEND REMOVAL PROCEEDINGS

(CT:VISA-2105; 05-07-2014)

An alien placed in removal proceedings on or after April 1, 1997, who without reasonable cause, fails or refuses to attend or remain in attendance at hearings to determine the alien's inadmissibility or deportability *is inadmissible under INA 212(a)(6)(B) for five years following the alien's departure or removal from the United States. Reasonable cause is defined as "something that is not within the reasonable control of the alien."*

9 FAM 40.62 N4 WAIVERS

(CT:VISA-2105; 05-07-2014)

- a. An INA 212(d)(3)(A) waiver recommendation may be submitted to DHS for those nonimmigrants ineligible under INA 212(a)(6)(B), if the consular officer chooses to recommend one. IV applicants are not eligible for a (d)(3)(A) waiver. (See 9 FAM 40.301.)*
- b. No I-212 relief is available for this section.*